* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision : February 13, 2007

\+ W.P.(C) 8265/2006 & CM No 6085/2006 (direction)

RAM CHANDER ..... Petitioner
Through Ms. Richa Kapoor, Advocate

versus

D.D..A ..... Respondent
Through Mr. Anil Sapra, Advocate

CORAM:
HON'BLE DR. JUSTICE S. MURALIDHAR

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in Digest? Yes

O R D E R

S.Muralidhar, J. (open court)

1. The prayer in this writ petition is for a writ of mandamus to the respondent-DDA to revive the allotment of flat no. 257, Pocket C-1, Sector 17, Ground Floor, Rohini in favour of the petitioner and issue a demand cum allotment letter in respect of the said flat in question in favour of the petitioner.

2. The facts in brief are that the petitioner got registered in 1989 under the Ambedkar Awas Yojna, 1989 for allotment of an LIG Flat by

depositing a sum of Rs.8,000/- and was given a priority number. The draw was held on 15.10.2004 and the petitioner was allotted a flat bearing No. 372, (Third Floor), Sector A-10, Pocket VI, Group 3, Narela, on cash down basis. This allotment was given by mistake since it was a case of double allotment, the flat having been allotted to some other person. It is stated that DDA thereafter included the petitioner's name in the general draw held on 1.7.2005 in which the petitioner was held successful and flat bearing No. 257, Pocket C-1, Sector 17, Ground Floor, Rohini was allotted to the petitioner.

3. On coming to know of the said allotment, the petitioner wrote to the DDA on 9.12.2005 and 3.1.2006 requesting for issuance of demand letter in respect of the said flat in Rohini. In response thereto, the petitioner received the demand-cum-allotment letter dated 22.12.2005 in respect of flat bearing no. 588 (Third Floor), Sector A-10, Pocket 6 at Narela. The petitioner wrote back to the DDA stating that since his name was included in the general draw and he was allotted a flat in Rohini, whereas the demand letter received by him pertained to the flat in Narela, he should be issued a demand letter in respect of the flat in Rohini.

4. The reply filed by the DDA to the writ petition basically relies

upon the first two paragraphs of a policy of the DDA expressed in an Office Order dated 12.6.2001 which reads as under:

> "Vide office order no. F2(10)2001/Co-ordn/[H]1145 dated 27.3.2001, we have issued the policy regarding how and where to allot flat to an allottee whose allotment was cancelled earlier and was restored. It was decided that wherever there is DDA's fault due to which cancellation took place and later restoration was resorted to the flat would be allotted by way of a restricted draw giving the alternative flat in the same locality and floor to the allottee or legal heirs.
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> In case, where the cancellation has taken place due to fault of the allottee, then in such cases of restoration a fresh allotment would be given that is by including all flats available in that category in all localities at that point of time."

5. Ms. Richa Kapoor, learned counsel appearing for the petitioner submits that the policy of 2001 cannot have any implication in the present case where even the first allotment was a mistake and there was no question of that allotment in Narela determining the area and locality where the petitioner was to be allotted a flat. She submits that having included the name of the petitioner in the general draw on 1.7.2005 and having made an allotment to him of a flat in Rohini, it is not open to the DDA to unilaterally change the location to Narela.

6. In reply, Mr. Anil Sapra, learned counsel appearing for the DDA states that since there is no challenge to the policy dated 12.6.2001

and as long as the DDA has acted in accordance with that policy and made an allotment in favour of the petitioner in Narela, no fault can be found at the DDA.

7. In a similar situation, a learned Single Judge of this Court in WP(C) 12893 of 2005 by an order dated 28.2.2006 held that an applicant would be entitled to allotment of the same flat, which was allotted as a result of a general draw held by the DDA consequent upon the rectification of an earlier erroneous allotment. In the instant case since the allotment of the flat in question at Narela was clearly a double allotment that could not be determinative of the location of the flat. Further, if indeed, the DDA was following the policy of 2001, it should have held only a restricted draw by way of giving an alternative flat. However, it is not dispute in the present case that the petitioner's name was included in a general draw held on 1.7.2005. As a result thereof, the allotment of a flat in favour of the petitioner was made in Rohini. Having included the name of the petitioner in the general draw and having allotted the flat in Rohini, it was not open to the respondent-DDA to unilaterally change the locality particularly where the petitioner had not sought for such change. The policy of 2001 does not compel the DDA to unilaterally change the location of a flat that has been allotted pursuant to a

general draw of lots, as in the present case. No other reasons have been given by the DDA as to why the petitioner could not be issued the demand letter for a flat at Rohini. Following the order dated 28.2.2006 of the learned Single Judge in WP(C) 12893 of 2005, it is held that the petitioner is entitled to be charged the cost prevalent on the date of the draw held on 1.7.2005.

8. Accordingly, the writ petition succeeds. A writ of mandamus is issued to the respondent-DDA to revive the allotment of a flat at Rohini of the same size in favour of the petitioner at the cost prevalent on the date of general draw held on 1.7.2005. The DDA is directed to issue a demand-cum-allotment letter within a period of four weeks from today.

9. Writ petition is accordingly allowed with no orders as to costs. The application is disposed of.

S. MURALIDHAR, J

FEBRUARY 13, 2007
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